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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,100	08/07/2003	Christopher Schwarz	L3440/277452	9133
23370	7590	01/04/2005	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			PAYER, HWEI SIU CHOU	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

3W

<b>Office Action Summary</b>	Application No. 10/636,100	Applicant(s) SCHWARZ ET AL.	
	Examiner Hwei-Siu C. Payer	Art Unit 3724	

-- Th MAILING DATE of this communication appears on th cov r sheet with th correspondenc address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 6 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## Detailed Action

The amendment filed on 11-22-2004 has been entered.

### Claims Rejection - 35 U.S.C. 102(b)

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lynn et al. (U.S. Patent No. 5,459,928).

3. Claims 1-3, 5, 9, 10, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Polhemus (U.S. Patent No. 368,003) as set forth in the last Office action. Further, Polhemus' tool can be used as a cabinet scraper and the blade (G) can be used as a cabinet scraper blade if one intended to.

### Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polhemus (U.S. Patent No. 368,003) for the same reason set forth in the last Office action.

3. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polhemus (U.S. Patent No. 368,003) in view of Bodmer (U.S. Patent No. 1,098,706) for the same reason set forth in the last Office action.

#### **Indication of Allowable Subject Matter**

Claims 6 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Prior Art Citations**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Traut, Lee et al. and Saunders et al. are cited as art of interest.

#### **Remarks**

Applicant's arguments filed on 11-22-2004 have been fully considered but they are not persuasive. Applicant argues the claimed invention now calls for a "cabinet scraper blade", and Polhemus's blade is not a cabinet scraper blade. Applicant further argues the pending application is directed to a scraper having a conventional scraper

blade with a cutting edge shaped like a hook or burr. However, Applicant's argument has no support from the specification as originally filed. Furthermore, a scraper blade needs not to shape like a hook or burr as Applicant alleges. Traut (Patent No. 837,978) shows a scraper blade (A) that does not shape like a hook or burr. Not only does Applicant fail to disclose the shape of the cabinet blade but he also fails to specifically claim the structure of the cabinet scraper blade that is distinct from that of Polhmenus'. Instead, the claims merely call for the cabinet scraper blade having "two ends". Polhmenus clearly shows such. Applicant also argues the orientation of the blade bevel of Polhmenus vs. the orientation of the blade bevel of a scraper blade. In response, it is noted that Polhmenus' blade (G) is reversible. One who wishes to use Polhmenus' blade for different working tasks (i.e. planing or scraping) would have known to position the blade (G) so that the blade bevel is either facing toward or away from the surface to be working on. Further, "plane" by definition is a carpenter's tool with an adjustable blade for leveling and smoothing wood. A plane is broader enough to be considered as a cabinet scraper that smooths surface on work pieces.

#### **Action Made Final**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 571-273-4511 for proposed amendments.

H Payer  
December 29, 2004

*H Payer*  
Hwei-Siu Payer  
Primary Examiner